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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/076,291	02/15/2002	William Kenneth Bowman		9952

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John Dodds
1707 N St., NW
Washington, DC 20036

EXAMINER

THOMPSON, HUGH B

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 03/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/076,291

Applicant(s)

Bowman, William

Examiner

Hugh B. Thompson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Dec 23, 2002
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other: _____

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DETAILED ACTION

Drawings

1. The corrected or substitute drawings were received on December 23, 2002. These drawings are approved.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. With respect to claim 1, line 1, "ladder" should read --ladder assembly--, and in line 4, "the leg(s)" is improper and should be avoided. In line 5, note that there should be two extended legs recited. In lines 6 and 7, there is no antecedent basis for "the floorpad" and "the upper edges", respectively. In line 8, the phrase "sliding rods" appears to refer the act of "sliding rods". If so, then it is unclear as to whether the claim is reciting some sort of *method of using* the mechanism. Claims 10-13 recite similar ambiguities with respect to "hanging".

5. With respect to claims 2-15, line 1, "The telescopic leg ladder" should read --The telescopic leg ladder assembly--. Note the "leg ladder" recitation of claim 1, line 2.

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6. With respect to claims 2-5, it is unclear as to how the mechanisms work, i.e., to what is each mechanism attached. Note that the applicant has only stated what each mechanism is and has failed to recite any particular structure associated with each mechanism and structural relationships to other components of the leg ladder.

7. Claims 14 and 15 recite the limitation "the ladder and telescopic mechanism" in lines 1-2. There is insufficient antecedent basis for this limitation in the claims.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1, 3, 4, 6-8, and 10-14, are rejected under 35 U.S.C. 103(a) as being unpatentable over Dempsey #3,861,500 in view of Hooten #5,031,723. Dempsey discloses an aluminum ladder 11 comprised of hollow rungs 12, 13, attached to tubular side rails, tubular telescopic extension legs 15, 16, which slidable within the rails and are adjusted by metal spring pin assemblies 17, 18, 36, and foot grip pads 31, 32, which are commonly known to be made of rubber. Dempsey fails to disclose components made of fiberglass and a rung attached holding/hanging means.

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10. Hooten teaches the utility of a rung attached holding assembly 50, 62, used to secure items such as paint cans and trays thereto. Therefore, to one of ordinary skill in the art, it would have been obvious to provide the ladder of Dempsey with a holding assembly as taught by Hooten, so as to secure items such as paint can and trays, when used by a user of the ladder.

11. Claims 9 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dempsey in view of Hooten as applied to claims 1, 3, 4, 6-8, and 10-14 above, and further in view of Murphy #5,950,761. Murphy teaches the utility of ladder components which can be made from plastics or fiberglass. Ladder components made of materials such as these, provide light weight, weather resistant, yet durable ladders. Therefore, to one of ordinary skill in the art, it would have been obvious to provide the ladder of Dempsey in view of Hooten as advanced above, with components made of plastic or fiberglass as taught by Murphy, so as to provide light weight, weather resistant, yet durable ladders.

12. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dempsey in view of Hooten as applied to claims 1, 3, 4, 6-8, and 10-14 above, and further in view of Planck et al #4,029,174. Dempsey fails to disclose a threaded telescopic leg and a rubber foot pad. Planck et al teach the utility of a threaded telescopic leg assembly 16, 17, having a rubber foot pad thereon. An assembly such as this provides for precise incremental adjustment of the extension leg relative to the ladder rail 11 on a particular terrain, while the rubber foot provides excellent gripping features on any given terrain. Therefore, to one of ordinary skill in the art, it would have been obvious to provide the ladder of Dempsey in view of Hooten as advanced above, with a

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threaded extension leg and rubber foot pad assembly, as taught by Planck et al, so as to provide for precise incremental adjustment of the extension leg relative to the ladder rail on a particular terrain, while the rubber foot provides excellent gripping features on any given terrain.

13. Claim 5, as best understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over Dempsey in view of Hooten as applied to claims 1, 3, 4, 6-8, and 10-14 above, and further in view of Dunnewin et al #5,755,307. Dempsey fails to disclose a hydraulic telescopic leg extension for a ladder. Dunnewin et al teach the utility of a hydraulic ladder leg extension assembly 16 that permits legs to freely telescope so that a ladder can be set vertically regardless of the slope or obstacles of associated terrain. Therefore, to one of ordinary skill in the art, it would have been obvious, as a matter of engineering design choice, to provide the ladder of Dempsey with a hydraulic ladder leg extension assembly as taught by Dunnewin et al, so as to permits legs to freely telescope so that a ladder can be set vertically regardless of the slope or obstacles of associated terrain.

Response to Arguments

14. Applicant's arguments filed in the Amendment of December 23, 2002 have been fully considered but they are not persuasive. In response to applicant's argument that Dempsey, Hooten, Murphy, or Planck et al, are not combinable, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the

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references. Rather, the test is what the combined teachings of the references *would have suggested* to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). Further, the reasoning that there is no other device on the market similar to applicant's invention, is not commensurate with the scope of the claims will not be further addressed.

15. The applicant has failed to provide any structural relationships between the recited telescopic devices of claims 2-5 and the ladder itself. Absent any particular structural relationships between the devices and the ladder, the instant invention fails to render non-obvious the Section 103 rejections as recited above.

Conclusion

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Worthington, Jr. is cited to teach hydraulic ladder and extension assemblies.

17. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR

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1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Hugh B. Thompson whose telephone number is (703) 305-0102. The examiner can normally be reached on Monday through Friday from 8:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel Stodola, can be reached on (703) 308-2686. The official fax phone number for this Group is (703) 305-3597, and the unofficial fax phone number (for drafts) is (703) 746-3641.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2168.

HB1

Hugh B. Thompson

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March 2, 2003



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